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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,618	10/24/2003	Bruce Williams	061270-0877	7223

22428 7590 03/30/2005

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/691,618

Applicant(s)

WILLIAMS ET AL.

Examiner

Erika Garrett

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-26, 59 and 63-72 is/are pending in the application.
- 4a) Of the above claim(s) 22, 59, 63, 65 and 72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 23-26, 64 and 66-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/24/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/28/05</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: species 1 figure 10 and species II figure 11.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Michelle Kile on 3/10/05 a provisional election was made without traverse to prosecute the invention of species 10, claims 21,23-26,64 and 66-71. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22,59,63,65 and 72 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cavity and sidewall must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: The applicant attention is drawn to pages 16-17 of the specification because it does not disclose the object holder includes a sidewall to define the cavity and the sidewall being accessible when the object holder is in the retracted, storage position in order to provide a handgrip for use in changing position of the object holder.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21, 23-24, 26, 64, 66-68 and 70-71 are rejected under 35 U.S.C. 102(e) as being anticipated by Kain (6,550,862). Kain discloses the use of a seat portion (10) including a base (98, fig. 1) having a seating surface (12); and an object holder (18) attached to the base and moveable between an extended, in use position and a retracted storage position (figures 1-2); wherein the object holder includes a cavity for receiving objects; and wherein the cavity (located on 90, fig. 3) is partially under the seating surface in the storage position, see figures 3-4; wherein the object holder includes a side wall to define the cavity, the sidewall being accessible when the object holder is in the retracted, storage position in order to provide a handgrip for use in changing position of the object holder. In regards to claims 23 and 67, the object holder includes an extension (27) slidably connected to the base and positioned under the seating surface, see figure 3. In regards to claims 24 and 68, the extension includes a slot (56), and the base includes a post (66, figures 2-3) positioned in the slot to limit a sliding motion of the object holder. In regards to claims 26 and 70, the object holder is configured so that when the object holder is moved under the seating surface a portion of the object holder remains accessible, thereby providing a gripping surface. In regards to claim 64, further comprising an object holder only partially retracts within the base in a retracted, storage position such that a first portion (figures 1 and 4) of the cavity remains extended from the base and a second portion (figures 2-3) of the cavity retracts within the base. In regards to claim 66, the object holder is slidably attached to the base. In regards to claim 71, wherein the cavity is at a distal end of the extension.

Claims 21, 25-26,64,67 and 69-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Schutter (5,527,008). Schutter discloses the use of a seat portion (console 300) including a base (304) having a seating surface (console 302); and a object holder (310) attached to the base and moveable between an extended, in use position and a retracted storage position (figure 7); wherein the object holder includes a cavity for receiving objects; and wherein the cavity (306) is partially under the seating surface in the storage position, see column 7. In regards to claims 25 and 69, further comprising a second object holder (figure 1). In regards to claims 26 and 70, the object holder (300) is configured so that when the object holder is moved under the seating surface a portion of the object holder remains accessible, thereby providing a gripping surface, see column 7. In regards to claim 64, further comprising an object holder only partially retracts within the base in a retracted, storage position such that a first portion (figure 7) of the cavity remains extended from the base and a second portion of the cavity retracts within the base. In regards to claim 66, the object holder is slidably attached to the base.

### ***Response to Arguments***

Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 21,23-26,64,66-71 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Kain does not teach an *"object holder that has a cavity where the cavity is partially under the seating surface in the retracted,*

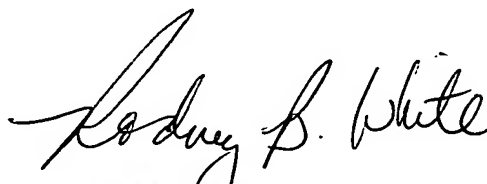
*storage position and defined by a sidewall*", applicant is directed to the above rejection. The examiner is of the opinion that Kain does teach the use of an object holder that has a cavity where the cavity is partially under the seating surface in the retracted, storage position that is defined by a sidewall, see figures 3-4.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758 or 571-272-6859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG  
March 15, 2005

  
RODNEY B. WHITE  
PRIMARY EXAMINEE